

As noted in the Office Action, Supreme Court precedent and recent Federal circuit decisions require a statutory "process" under 35 U.S.C. §101 (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to different state or thing.

The Office Action asserts that, while the instant claims recite a series of steps or acts to be performed, the claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore, does not qualify as a statutory process. Further, the Office Action asserts that the limitations of the method claim are not tied to a means or apparatus that performs the function or steps. See pages 2 and 3 of the Office Action.

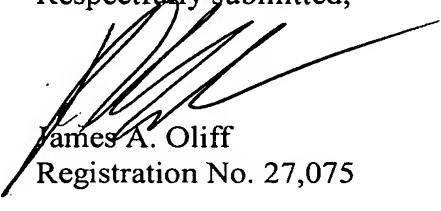
However, independent claim 1 recites that an acoustical volume velocity Q is generated using a simulator simulating acoustic properties of at least a head of a human being, the simulator comprising a simulated human ear with an orifice in a simulated head and a sound source in the simulator for outputting the acoustical volume velocity Q through the orifice, so as to generate a sound field around the simulator that simulates a sound field around a human being. In other words, independent claim 1 positively ties to the simulator, which is an apparatus that accomplishes the claimed method steps.

Therefore, independent claim 1, and claim 2-5 depending from independent claim 1, satisfy the above Supreme Court precedent and recent Federal Circuit decisions, and is thus patent-eligible under §101. Thus, for at least these reasons and those discussed below, Applicants respectfully submit that claim 1, and claims 2-5 depending therefrom, are in allowable condition and thus the application is in condition for allowance.

In view of the foregoing remarks, Applicants submit that this application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,


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